

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

KEVIN D. LEAVELLE,
Petitioner,
v.
RAYBON JOHNSON,
Respondent. } Case No. 8:23-cv-02507-FWS (DTB)
}
**ORDER TO SHOW CAUSE
REGARDING OPPOSITION TO
MOTION TO DISMISS**

On February 23, 2024, the Ninth Circuit Court of Appeals denied Petitioner’s application for authorization to file a second or successive 28 U.S.C. § 2254 habeas corpus petition as unnecessary because it did not appear that Petitioner had filed a prior § 2254 petition challenging his 2002 conviction in Orange County Superior Court case number 00NF1154. The Ninth Circuit transferred Petitioner’s application and supplemental filings to this Court, to be processed as a § 2254 petition, deemed filed in this Court on June 4, 2023.

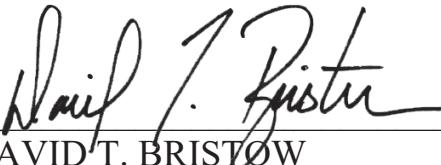
On February 28, 2024, the Court issued a discrepancy notice for Petitioner's failure to pay the appropriate filing fee of \$5.00 or file a Request to Proceed Without Prepayment of Filing Fee. (Docket No. 5.) On April 2, 2024, as Petitioner had not

1 paid the filing fee nor submitted a Request to Proceed Without Prepayment of Filing
2 Fee, the Court, *sua sponte*, extended Petitioner's time within which to do so.
3 (Docket No. 7.) On April 29, 2024, Petitioner paid the \$5.00 filing fee. (Docket No.
4 8.) In accordance with this Court's Order Requiring Response to Petition (Docket
5 No. 10), Respondent filed a Motion to Dismiss Petition for Writ of Habeas Corpus
6 ("Motion") (Docket No. 13), along with a Notice of Lodging (Docket No. 14) on
7 June 6, 2024. On July 23, 2024, as Petitioner has not opposed the Motion, the Court,
8 *sua sponte*, extended his time within which to do so. (Docket No. 15.) Petitioner's
9 opposition, if any, was due on before August 23, 2024. Petitioner was advised that
10 pursuant to the Central District of California Local Rules - *Failure to File Required*
11 *Documents* - the Court may decline to consider any memorandum or other document
12 not filed within the deadline set by order or local rule and that the failure to file any
13 required document, or the failure to file it within the deadline, may be deemed
14 consent to the granting or denial of the motion.
15

16 As of this date, Petitioner has failed to oppose the Motion. Therefore,
17 Petitioner is ordered to show cause why this action should not be dismissed for lack
18 of prosecution. Petitioner may alternatively file a opposition to the Motion to
19 discharge this Order to Show Cause. Petitioner's response is due no later than
20 **September 30, 2024.**

21 **Petitioner is hereby cautioned that failing to comply with this Order will**
22 **result in the recommendation that this action be dismissed for failure to**
23 **prosecute and failure to comply with the Court's orders.**

24 Dated: September 5, 2024


25 DAVID T. BRISTOW
26 United States Magistrate Judge
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